

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-00302R

Parcel No.320/03026-108-000

Keith Duane Sheriff,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 30, 2020. Keith Sheriff was self-represented. Assistant Polk County Attorney Dave Hibbard represented the Board of Review.

Keith and Linda Sheriff own a residential property located at 813 58th Street, West Des Moines. The property's January 1, 2019 assessment was set at \$341,900. (Ex. B).

Sheriff petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property and the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review lowered the assessment to \$328,600, allocated as \$63,300 in land value and \$265,300 in dwelling value. (Exs. A & B).

Sheriff appealed to PAAB reasserting his claims. § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a two-story home built in 1986. It has 2625 square feet of gross living area, with 1365 square feet of unfinished basement, an enclosed porch, an open porch, a patio, and an attached 983 square-foot, three-car garage. It is listed in normal condition with good-quality construction (grade 3+05). The Assessor's Office applied 17% physical depreciation with no other obsolescence noted. The site is 0.335 acres. (Ex. A).

Sheriff testified the next-door property located at 817 58th Street sold in 2018 for \$280,000 after being exposed to the market for a period of time. (Ex. 2). Its original 2019 assessed value was set at \$361,000, and then subsequently reduced to \$294,900 by the Board of Review. Sheriff testified he knows the buyer and seller and is somewhat knowledgeable regarding the property. In his opinion it is not necessary to make adjustments to the next door property for differences between it and his home because the adjoining property was originally assessed higher than his property indicating it is superior to his. Because the neighboring home sold for \$280,000, he asserts his property must be valued for something less. He suggested \$275,000.

Despite Sheriff's testimony regarding the relative assessments of his property and 817 58th Street, the subject is superior in several respects when compared to 817

58th Street. The subject property has more gross living area, a larger garage, and an enclosed porch.

The record also includes an appraisal of 817 58th Street, completed by Jeremy Epperson of Frahm Appraisal Company, Urbandale. (Ex. D). Epperson concluded a market value of \$295,000, as of November 2018.

The Board of Review noted Epperson reported the property sold as a short sale. (Ex. D, p. 1). Sheriff admitted the sellers had pets, and the property required some work at the time of its sale.

In addition to 817 58th Street, Sheriff submitted three additional 2018 sales. He also offered five 2017 sales and a list of properties that had not recently sold. In light of the more recent 2018 sales in the record, we give no consideration to the 2017 sales or other comparables that have not sold. (Ex. 1). A summary of his 2018 comparable sales is shown in the table below. (Exs. 1-5).

Address	Quality Grade	Gross Living Area (GLA)	Basement Finish (SF)	2019 Assessed Value	Sale Price	Sale Ratio
Subject	3+05	2625	0	\$328,600	NA	
1 – 817 58th St	3+05	2399	663	\$294,900	\$295,000 ¹	1.00
2 – 908 58th St	2-10	3273	0	\$381,500	\$345,000	1.11
3 – 814 57th PI	3+10	2874	1100	\$333,800	\$310,000	1.08
4 – 805 57th PI	2+00	2926	1144	\$393,600	\$343,000	1.15

All comparables are two-story homes and sold in 2018. The comparables bracket the subject's quality grade and gross living area. Comparables 1 and 3 are most similar in size and quality grade. Comparable 3 is one grade level superior to the subject, has an additional 249 square feet of living area, and has 1100 square feet of finished basement area. Regardless, it sold for less than subject's assessed value.

The sales all have 2019 assessed values that are greater than their 2018 sale prices. The ratios range between 1.00 and 1.15, with a median of 1.10. (Exs. 1-5). A ratio higher than 1.00 suggests a property is assessed for more than its market value; a ratio lower than 1.00 suggests a property is assessed for less than its market value.

Sheriff did not adjust the comparables for differences between them and his home to arrive at a market value as of January 1, 2019.

¹ Appraised value utilized for ratio because sale was a short sale.

The Board of Review did not offer any witnesses.

Analysis & Conclusions of Law

Sheriff contends the subject property is inequitably assessed and over assessed. § 441.37(1)(a)(1 & 2).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Sheriff offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Sheriff submitted four 2018 sales he believes support his claim. The sales are similar to the subject and sold for less than their respective assessed values. The assessment-to-sales-price ratio was between 1.00 and 1.15, with the lower end of this range set by a property where the Board of Review modified the assessment. The data suggests that comparable properties in the subject's neighborhood are over assessed.

Although there are sales ratios in the record, the *Maxwell* test also requires a showing of the subject property's actual market value as compared to its current assessment. Sheriff's over assessment claim requires the same showing, and we therefore, turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in

abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

The subject property has not recently sold and Sheriff did not submit an appraisal or Comparable Market Analysis (CMA), which is typical evidence to support a claim of over assessment. However, he did provide four 2018 sales of similar size, design, and location. He did not adjust the comparables for differences between them and the subject to arrive at a final opinion of value for the subject and they do not support his assertion that the subject has a market value of \$275,000. (Appeal to PAAB, Hearing).

Regarding Sale 1 at 817 58th Street, the evidence indicates it was a short sale. The Appraisal Institute defines a short sale as follows:

A sale of real property in which the proceeds from the sale fall short of the balance owed on a loan secured by the property. Lenders may agree to a short sale to avoid lengthy and costly foreclosure proceedings, and borrowers who cannot meet their mortgage obligations may agree to a short sale to satisfy their debt.

APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 181 (5th ed. 2010).

Sheriff still asserted the property was actively marketed and regardless of being a short sale, the sale price is still its market value. Because of the nature of the sale and because of differences between the subject and the comparable, which have not been adjusted for, we do not believe the sale price or appraised value of that property offers conclusive evidence of the subject's fair market value.

Sales 2 and 4 suggested a trend of overassessment but were less similar to the subject and were significantly larger in size. However, we find Comparable 3 is the most similar arms-length sale in the record and while it has several superior attributes to the subject, its sale price is lower than subject's assessed value.

Viewing the record as a whole, we conclude Sheriff has proven his property is over assessed. In addition, while not supporting his requested value of \$275,000, we find his comparables show the subject's market value should be no more than \$310,000, the sale price of Comparable 3. We find this to be the best evidence of the subject's value in the record and modify the assessment accordingly.

Order

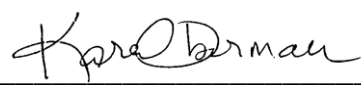
PAAB HEREBY MODIFIES the Polk County Board of Review's action and orders the subject property's January 1, 2019, assessment be set at \$310,000.

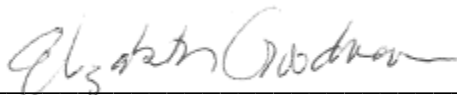
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.


Dennis Loll, Board Member


Karen Oberman, Board Member


Elizabeth Goodman, Board Member

Copies to:

Keith Sheriff by eFile

Polk County Board of Review by eFile

Polk County Auditor
111 Court Ave
Des Moines, IA 50309